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IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

NO. 216

IN RE: ESTATE OF
CORA HUBBARD WILLIAMS

MOTION TO REMAND
And, In The Alternative,
PETITION FOR REHEARING

On Petition for Writ of Certiorari to the
Supreme Court of Pennsylvania

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To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

The petitioner, Mrs. Cora Hubbard Williams, respectfully moves this Honorable Court to vacate its Order entered on October 14, 1963, denying her petition for writ of certiorari (*United States of America, Petitioner, v. The Ohio Power Company*, 353 U.S. 98, 1957); then to grant the petition for writ of certiorari and vacate the Judgment of the Supreme Court of Pennsylvania sought to be reviewed (App. 11); and thereupon to reverse the said Judgment sought to be reviewed and remand (28 U. S. C. section 2106) the above entitled cause to the Supreme Court of Pennsylvania for further proceedings (*United States of America, Petitioner, v.*

Shotwell Manufacturing Company, et al., 355 U. S. 233, 1957, citing and relying upon *Communist Party v. Subversive Activities Control Board*, 351 U. S. 115, and *Mesarosh v. United States*, 352 U.S. 1); requiring the said Court to enter an adjudication on the merits of her Petition for Change of Venue (App. 2-11) as required. (*United States v. International Building Co.*, 345 U.S. 502, 506, and see also 354 U.S. 393); and, in the alternative,

PETITION FOR REHEARING

The Petition for Rehearing of Mrs. Cora Hubbard Williams, petitioner, respectfully prays that this Honorable Court will grant a rehearing of her Petition for Writ of Certiorari to the Supreme Court of Pennsylvania, and

In support of her Motion to Remand and, in the alternative, her Petition for Rehearing, it is averred:

1. The above captioned proceeding came before this Honorable Court on Cora Hubbard Williams' Petition for Writ of Certiorari to the Supreme Court of Pennsylvania, Respondents' Brief Sur Petition For Writ Of Certiorari and Petitioner's Reply Brief.

2. In the petitioner's said Petition, the Questions Presented were as follows:

> **(1) Does not a litigant have the right to be heard in advance of judgment, pursuant to the provisions of the Fourteenth Amendment to the Constitution of the United States?**

(2) When the State Courts have deprived a citizen of the right to be heard in advance of judgment, have not those State Courts deprived such litigant of property without due process of law in violation of the provisions of the Fourteenth Amendment to the Constitution of the United States?

(3) When the trial Court of a state unlawfully has denied a litigant the right to a hearing on the issue of fraud in the procurement of an adjudication of incompetency, and the highest judicial tribunal of that state, which sanctioned such denial of hearing, has the authority and power in an original proceeding to change the venue of the cause but refuses to do so; has not the litigant thus been deprived of property and individual liberties without due process of law in violation of the provisions of the Fourteenth Amendment to the Constitution of the United States?

(4) Should not a Pennsylvania State Supreme Court Judgment, whereby a citizen has been deprived of property and important rights without due process of law, be reviewed and reversed by this Honorable Court?

3. *It was plainly evident from the said Petition, that all of the Questions Presented should have been answered in the affirmative.*

4. The Respondents' Brief Sur Petition For Writ Of Certiorari patently failed to conform to and comply with the usual and accepted practice, as well as the applicable Rules of this Honorable Court. Even if the respondents had complied with the accepted practice in this Honorable Court through a brief in opposition, they could not have complied with the provisions of paragarph 1 of Rule 24 for their failure to disclose "any matter or ground why the cause should not be reviewed by this Court".

5. Petitioner's Reply Brief showed how obviously untenable and insupportable were the respondents' Counter-Statement of Questions Presented, Counter-Statement of the Case and Argument; and thereupon readily disposed of their unsound and insupportable arguments as wholly without merit. Petitioner's Reply Brief then concluded (pp. 24-25) by analyzing the bad tenor of respondents' brief and the lack of respect for this Honorable Court shown therein, and manifesting how little Mrs. Williams asks of the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States,—*merely the right to be heard in advance of judgment.*

6. It is respectfully submitted that upon the record herein, this Honorable Court should review and reverse or review and remand; and that the only legal justification for the refusal to review and reverse, could be the fact that the Judgment sought to be reviewed was not adjudicated on the merits and, as a matter of practice, this Honorable Court declines to review unadjudicated issues. *United States of America, Petitioner, v. Shotwell Manufacturing Company, et al., Communist Party, v.*

Subversive Activities Control Board, Mesarosh v. United States, supra.

7. In view of the averments of the immediately preceding paragraph, and particularly because your petitioner has been seeking without any consideration or success whatever the protection and enforcement of her rights under the Due Process Clause which the jurists have sworn to uphold, this Honorable Court's attention is drawn to its pronouncements in the case of (p. 506) *United States v. International Building Co., supra,* as follows: "But unless we can say that they were an adjudication on the merits, the doctrine of estoppel by judgment would serve an unjust cause; it would become a device by which a decision not shown to be on the merits would forever foreclose inquiry into the merits. Estoppel by judgment includes matters in a second proceeding which were actually presented and determined in an earlier suit. See *Commissioner v. Sunnen, supra,* at 598"; as well as its decision reported in 354 U. S. 393, whereby it remanded a cause to the State Court to pass upon the issues of protection under the Due Process Clause.

8. A remand of the instant cause as sought therein is also required pursuant to this Honorable Court's power of supervision, *because it is so obvious that the Supreme Court of Pennsylvania failed to accompany the judgment sought to be reviewed (App. 11) with an opinion or even assign any reasons therefor.* Thus the Supreme Court of Pennsylvania did not comply with the usual and accepted practice relating to opinions of Court or with the provisions of the applicable Canons 19, 20 and 22 of the Canons of Judicial Ethics. In this respect

too, your petitioner has been deprived of her guaranteed right to due process of law. The said right to an opinion is also required by the Right to Know, and at this point it is submitted that the Judgment sought to be reviewed could not have been accompanied by a *supporting opinion*.

9. It is evident from the record and particularly from Mrs. Cora Hubbard Williams' unanswered, undenied and unopposed Petition for Change of Venue (App. 1-11) in the Supreme Court of Pennsylvania, that *petitioner has been deprived of her multi-million dollar Estate and the beneficial use and enjoyment of all of her income, as well as her individual liberties, without due process of law*. It is further evident therefrom that the said deprivations were originally effected through an *ex parte* hearing of which your petitioner did not receive notice and the right to be present with counsel and witnesses; and then said deprivations were subsequently effected and perpetuated through a denial of her right to be heard on the issue of the fraud and misconduct of her adversaries in the original procurement of the fraudulent adjudication of incompetency. *Thus it is respectfully submitted that the lowest form of cheating and defrauding, is cheating and defrauding through a fraudulent adjudication of incompetency.* What more persuasive compelling need for the protection and enforcement of one's right to due process of law could be presented to the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States?

10. Under the Constitution and laws of the United States, everybody is entitled to due process of law, as

sought herein, even the descendants of our Founding Fathers as is your petitioner herein. Prior to and since the entry of this Court's Order denying the instant petition for writ of certiorari, this Honorable Court nonetheless has granted writs of certiorari or remanded causes on innumerable less cogent applications than that of Mrs. Williams.

11. *Prior to this cause* advocated on behalf of Mrs. Williams, whose petition should and could be granted at no cost to the government, this Honorable Court sanctioned proceedings whereby nine Negro children were assisted in attending a public school in Little Rock, Arkansas, at an estimated cost to our government of $5,000,000.00. The Court, furthermore, granted petitions on behalf of persons charged with activities subversive to our government, meticulously guaranteeing even their rights to due process of law. It is also common knowledge that innumerable applications of admitted criminals who have confessed the commission of serious crimes have been granted in the interests of due process of law.

12. *Since the denial of Mrs. Williams' petition* (one week later), this Honorable Court continued its policy of such protection and enforcement of rights to due process of law. On October 21, 1963, it was reported in the *Pittsburgh Press* that this Honorable Court on that day (a) granted the petition of Mr. Vito Genovese, "recently identified as 'boss of all bosses' of the Cosa Nostra crime cartel", whereby this Court "In a brief order vacating the 1959 convictions of Genovese and nine co-defendants, the high court directed the Second

U. S. Circuit Court of Appeals to take another look at the case in light of a Supreme Court decision last term"; (b) this Court "Reversed the convictions of 373 Negro students found guilty of breach of the peace for demonstrating against segregation policies at Orangeburg, S. C., in 1960. The court had sent the case back to South Carolina last term for rehearing and the State Supreme Court had upheld the convictions. Today's brief order was a summary reversal of the state action"; (c) this Court, "Agreed to hear arguments on a challenge to Delaware's recent legislature reapportionment. Four cases from other states also will be heard this year"; and (d) this Court "Granted a hearing to Jesse James Arnold and George Dixon, two Negroes sentenced to death for a 1961 robbery-murder in North Carolina. Their appeal said systematic exclusion of Negroes from the grand jury invalidated the indictment".

13. In view of the averments of paragraphs 10, 11 and 12, your *petitioner repeats that she has asked very little of this Honorable Court in petitioning for the right to be heard in advance of judgment. It is a matter of record, and not denied that your petitioner is competent; and it is also a matter of record that Mrs. Williams has never been legally adjudicated an incompetent.* It has been petitioner's contention that she can establish at a hearing the point that the adjudication of incompetency was unlawfully obtained through the fraud and misconduct of her adversaries. *Whether or not her judges believe that she can establish this point, they indeed should not deprive her of the right to try.*

14. The fraudulent adjudication of incompetency and its concomitant afflictions constitute a vicious viola-

tion of Mrs. Williams' civil rights, which should not be sanctioned by any Court. The recent official haste to protect and enforce the civil rights of the Underprivileged Man has perhaps resulted in ignoring the protection and enforcement of civil rights of the Privileged Man. Officialdom is mistaken if it believes that wealthy white people, like Mrs. Cora Hubbard Williams, "can take care of themselves" and thus cannot be listed among the needy who require judicial protection of their safeguards against tyrannical judicial actions. This Honorable Court, therefore, should reconsider the contents of Mrs. Williams' Petition and her Reply Brief in order to make certain that the required protection and enforcement of important rights of a member of the so-called privileged class have not been overlooked or disregarded.

15. These shameful proceedings against petitioner were instigated and perpetuated by Mrs. Williams' only child, Mrs. Cora Williams Murdoch of Haverford, Pennsylvania, and those in combination with her. The hatefully adversary activities of this wayward daughter against her mother are incredible, and should not be judicially assisted.

16. In view of the foregoing, it is respectfully submitted that upon reconsideration of this cause, this Honorable Court should remand the cause for further proceedings, or grant a rehearing of the Petition for Writ of Certiorari.

WHEREFORE, Mrs. Cora Hubbard Williams, petitioner, respectfully prays that this Honorable Court will enter an Order granting her Motion to Remand or allowing her Petition for Rehearing.

Respectfully submitted,

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Dated: 4 November 1963.

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in paragraph 2 of Rule 58.

PAUL GINSBURG,
Counsel for Petitioner.